

INTERNAL REVENUE SERVICE

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[REDACTED]

Dear [REDACTED]

This is in reply to your letter mailed February 9, 2000, requesting a ruling concerning the federal income tax treatment of disability income received from the State of [REDACTED]. A definitive answer to your question can only be obtained through the private letter ruling process. You may request and obtain a private letter ruling by following the procedures set forth in Rev. Proc. 2000-1, 2000-1 I.R.B. 4 (copy enclosed). A user fee is required with respect to a request for a ruling. Although we cannot give you a ruling at this time, we can provide you with the following general information concerning disability retirement benefits.

Section 61(a) of the Internal Revenue Code provides that, in general, gross income means all income from whatever source derived.

However, section 104(a)(1) of the Code provides an exception to section 61(a) for amounts received under workmen's compensation acts as compensation for personal injuries or sickness.

Section 1.104-1(b) of the Income Tax Regulations states that section 104(a)(1) excludes from gross income amounts that are received by an employee under a workmen's compensation act or under a statute in the nature of a workmen's compensation act that provides compensation to employees for personal injuries or sickness incurred in the course of employment. However, section 104(a)(1) does not apply to a retirement pension or annuity to the extent that it is determined by reference to the employee's age or length of service, or the employee's prior contributions, even though the employee's retirement is occasioned by an occupational injury or sickness. Moreover, section 104(a)(1) does not apply to amounts which are received as compensation for a nonoccupational injury or sickness nor to amounts received as compensation for an occupational injury or sickness to the extent that they are in excess of the amount provided in the applicable workmen's compensation act or acts.

Accordingly, as a general rule, if a person receives benefits under workmen's compensation as the result of a job related injury, those benefits are nontaxable. However, if the amount of the benefits is based on age or years of service, the benefits are taxable. Whether a particular statute is in the nature of a workmen's compensation act depends upon the specific terms of the statute.

We hope this information is helpful to you. If you need additional information or have any questions concerning any of the matters discussed in this letter, including how to obtain a letter ruling, please contact Malcolm Funn (Identification Number 50-02485) of my staff at (202) 622-6080.

Sincerely,

Harry Beker
Chief, Health & Welfare Branch
Office of Division Counsel/Associate
Chief Counsel
(Tax Exempt & Government Entities)

Enclosure:
Rev. Proc. 2000-1